



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 18-008
Preliminary Plan No. 120170120
Ethan Jackson Property
Date of Hearing: January 25, 2018

FEB 22 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on January 30, 2017, Benjamin Davis (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 0.37 acres of land in the R-60 zone, located in the northeast quadrant of the intersection of Ethan Allen Avenue and Jackson Avenue (“Subject Property”), in the Takoma Park Policy Area and 2000 *Takoma Park Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120170120, Ethan Jackson Property (“Preliminary Plan” or “Application”); and

WHEREAS, on May 3, 2017, the City of Takoma Park, Maryland, wherein the Subject Property is located, passed Resolution No. 2017-32 opposing the project as originally proposed because of the placement of one proposed structure close to Ethan Allen Avenue and requesting the developer and the Montgomery County Planning Board work together to modify the proposed subdivision to place the corner house more in line with properties to the east of the Subject Property to as to better conform to the built environment in this highly visible location along Ethan Allen Avenue; and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated January 12, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 25, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:


M. NCPPC Legal Department
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WHEREAS, on January 25, 2018, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Dreyfuss, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Patterson voting in favor, and Commissioner Fani-Gonzalez being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170120 to create two lots on the Subject Property, subject to the following conditions:¹

1. This Preliminary Plan is limited to 2 lots for 1 single-family dwelling unit on each.
2. The Plat must reflect a minimum Building Restriction Line on Ethan Allen Avenue of 30 feet.
3. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by the City of Takoma Park.
4. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
5. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
6. The Planning Board accepts the recommendations of the City of Takoma Park Department of Public Works in its stormwater management concept approval letter dated March 27, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park Department of Public Works provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. The Applicant must provide sidewalks along the property frontage on Ethan Allen Avenue and Jackson Avenue, with a minimum width of five feet as illustrated on the Certified Preliminary Plan.
8. The Applicant must dedicate and show on the record plat along the Ethan Allen Avenue frontage necessary to achieve a public right-of-way measuring twenty-five feet from the existing pavement centerline to the Subject Property frontage.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
10. The record plat must show necessary easements.
11. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
12. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
13. Prior to issuance of a building permit, the applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
14. Prior to issuance of a building permit, the Applicant must provide a signed commitment to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
15. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
16. Along the Jackson Avenue frontage, the Applicant must provide at least two street trees and make good faith efforts to provide a third.
17. The Applicant must provide at least two street trees along the Ethan Allen Avenue frontage.

18. Prior to certification of the Preliminary Plan, the Applicant must submit, for Staff review and approval, and implement a revised Tree Save Plan which:
 - a. Consistently includes references to the Planning Department Inspector;
 - b. Provides the applicable standard notes, specifications, and details;
 - c. Provides native landscape plantings; and
 - d. Provides detail on the treatment of invasive species (including ground cover), particularly within/near the tree save areas.

19. All landscape plantings shown on the approved Tree Save Plan must be installed on each lot prior to final inspection.

20. The Applicant must enter into a contract with an appropriate tree care professional to implement a 3-year tree care program noted on the plans. The terms of the program shall be determined in coordination with the tree care professional and the M-NCPPC inspector as part of the pre-construction measures. The program must include provisions for removal and replacement of any protected trees which die or show signs of severe decline within the 3-year maintenance period.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Having considered the technical review requirements of Section 50.4.3., the Application, as conditioned, meets all applicable sections. Regarding lot design, the location of the corner lot, which will have a front setback closer to the curb of Ethan Allen Avenue than its neighbor due to the adequate but inconsistent right-of-way, will give visual prominence to the house built there. A condition of approval increases the Building Restriction Line along Ethan Allen Avenue to temper that prominence. As conditioned, the size, width, shape, and orientation of the lot is appropriate for the location of the subdivision taking into account the recommendations included in the Master Plan, and for the type of development or use contemplated.

Additionally, the lots were reviewed for compliance with the dimensional requirements for the R-60 Zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Montgomery County Department of Permitting Services conducted an analysis and determined that since only two of the five adjoining lots have a setback greater than the minimum, there is no Established Building Line as defined under Section 59.4.4.1.A on Ethan Allen Avenue, and the building setback should be taken from the right-of-way line at Ethan Allen Avenue. The Planning Board accepts this application of Section 59.4.4.1.A.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The 2000 *Takoma Park Master Plan* does not have recommendations specific to the Subject Site, but includes as one of its overall objectives to sustain and enhance residential neighborhoods. As conditioned, this development will preserve and enhance the residential character of the neighborhood, and encourages neighborhood reinvestment, by converting an empty lot into two single-family residences. Additionally, as discussed in Finding 4 below, as conditioned the development will further the environmental goals of the Master Plan through implementation of urban forestry practices. The Preliminary Plan substantially conforms to the recommendations within the *Takoma Park Master Plan*.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

The Preliminary Plan will improve site access by permanently closing the existing driveway entrance on Ethan Allen Avenue, thus eliminating a point of conflict on that roadway. The Preliminary Plan will also close the existing Jackson Avenue access point and construct two new driveways toward the north side of the site, approximately 40 feet and 75 feet north of the existing driveway. The Jackson Avenue access concept shifts access as far away from the Ethan Allen Avenue intersection as possible and furthers the Preliminary Plan's improvement to the public roadway network.

The Preliminary Plan will improve pedestrian safety and comfort by adding a new five-foot wide sidewalk on both Jackson Avenue and Ethan Allen Avenue that includes a landscaped buffer with street trees, measuring approximately eight feet wide on Ethan Allen Avenue and approximately six feet wide on Jackson Avenue.

The Subject Property is subject to the 2000 *Takoma Park Master Plan*, which identifies Ethan Allen Avenue as a two-lane arterial roadway (A-20) within a 50-foot wide right-of-way. The Master Plan does not have specific recommendations

for Jackson Avenue, which was previously dedicated to a width of 50-feet through Plat # 1326. The Subject Property is also subject to the 2005 *Countywide Bikeway Functional Master Plan*, which has no recommendations for either Ethan Allen Avenue or Jackson Avenue.

Based on the *2016-2020 Subdivision Staging Policy* transportation impact criteria, because the lots generate fewer than 50 peak-hour person trips, the Application is not subject to a Local Area Transportation Review analysis. As a result of the Jackson Avenue and Ethan Allen Avenue frontage improvements, site access, internal circulation, and vehicular and pedestrian access for the subdivision will be safe and adequate.

All other public facilities, including roads, water and sewer, utilities, police, fire, health, and schools are adequate to serve the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

The application is subject to the Forest Conservation Law. On January 26, 2017, the Planning Department confirmed for the development a Forest Conservation Exemption (#42017042E) under Section 22A-5(s)(2) as a small property.

A Tree Save Plan is required to ensure that the trees and mature landscape near the subject property are not unnecessarily damaged or removed. The Tree Save Plan will also protect certain onsite trees and include new plantings. The protection measures and/or new plantings are necessary to meet the requirements of the exemption consistent with the recommendations of Takoma Park Master Plan regarding urban forestry concepts to improve the quality of the urban ecosystem by "minimizing yard maintenance through natural landscaping and maintaining a healthy tree stock which is important to the character of the Takoma Park Community". Special construction techniques and careful coordination with a contracted tree care professional will be necessary to ensure that the subject trees are appropriately protected throughout the construction. Conditions of approval address the Tree Save Plan approval and its implementation.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

This finding is based upon the determination by the City of Takoma Park Department of Public Works that the Stormwater Management Concept Plan meets applicable standards. The approved concept features multiple micro-bio-retention facilities for each lot.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 22 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Patterson, seconded by Commissioner Fani-González, with Chair Anderson, Commissioners Patterson and Fani-González voting in favor, and Vice Chair Dreyfuss and Commissioner Cichy absent, at its regular meeting held on Thursday, February 15, 2018, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board